



Mitchell E. Daniels, Jr.  
Governor

Judith A. Monroe, M.D.  
State Health Commissioner

# Indiana State Department of Health

*An Equal Opportunity Employer*

## CERTIFIED MAIL

February 20, 2007

Mr. Timothy D. Short  
Waterford Estates Lodge  
52890 SR 933 North  
South Bend, IN 46637

Dear Mr. Short,

The variance application received on January 23, 2007 has been reviewed, evaluated and is hereby **denied** because it violates Indiana Code 16-19-3-4.3 by not establishing a good cause. According to the St. Joseph County Health Department, an apparent failure on your part to properly submit plans and specifications to the health department in advance of construction resulted in an installation of a ceiling material type not allowed under the Indiana State Department of Health (ISDH) Rule, 410 IAC 7-24, Retail Food Establishment Sanitation Requirements. Furthermore, the variance application failed to address Section (b)(6), bullets 2, 3 and 5 of the ISDH Variance Protocol. These areas are as follows:

- How the proposal may be unique in dealing with a situation not addressed in existing rules or law. (This section is addressed in law and the ceiling must be cleanable.)
- How the proposal does not diminish the protection of public health. (While your proposal to change out the ceiling tiles annually would prevent normal accumulation of soil and grease, it does not address an accident or occurrence that could necessitate cleaning before the annual replacement.)
- How implementation of the variance would be practical. (Since your proposal is to change out the ceiling tiles annually, why not change out the approximately 23 tiles now utilizing acceptable tiles?)

In compliance with the ISDH variance protocol, your variance application was made public and one (1) comment was received opposing your plan.

You must therefore come into compliance with all requirements of ISDH Rule, 410 IAC 7-24, Section 407, Retail Food Establishment Sanitation Requirements, and install the required ceiling material on a schedule to be determined by the St. Joseph County Health Department.

**If you wish to request an administrative review or stay of effectiveness of this decision pursuant to Ind. Code §4-21.5-3-7(a), you must petition for such review in writing. The petition must state facts demonstrating that:**

- a. you are a person to whom the decision is specifically directed;
- b. you are aggrieved or adversely affected by the decision; or,
- c. you are entitled to review under any law.

**Your request for review or stay of effectiveness must be filed in writing with the State Health Commissioner, 2 North Meridian Street, Indianapolis, Indiana 46204, on or before March 9, 2007. If no request for review or stay of effectiveness is filed by March 9, 2007, this decision shall become final.**

Dated at Indianapolis, Indiana, this February 20, 2007

  
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Terry Whitson, Assistant Commissioner  
Health Care Regulatory Services  
Enclosures

cc: Executive Board, ISDH  
St. Joseph County Health Department  
Retail Staff